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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,891	12/14/2000	Brian D. Kling	190252-1740	5760
38823 7590 09/23/2008 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/ AT&T Intellectual Property I, L.P. 600 GALLERIA PARKWAY, S.E. SUITE 1500 ATLANTA, GA 30339-5994				
EXAMINER				
GOLD, AVIM				
ART UNIT		PAPER NUMBER		
2157				
MAIL DATE		DELIVERY MODE		
09/23/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/735,891

Applicant(s)

KLING, BRIAN D.

Examiner

AVI GOLD

Art Unit

2157

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-20 and 22-35.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Ario Etienne/
Supervisory Patent Examiner, Art Unit 2157

Continuation of 3. NOTE: Further search and/or consideration would be necessitated by the change in scope of the claims (e.g., "an intended recipient").

Continuation of 11. does NOT place the application in condition for allowance because: Further search and/or consideration would be necessitated by the change in scope of the claims (e.g., "an intended recipient").

The 112, second paragraph rejection, of claims 1, 16, 29, and 34, remains, as the claims are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding the limitation of the claims where a text message is broadcast to a single client by an indication in the subject field; the specification and common definition define a broadcast as a message sent to many users, not a singular user as claimed. The applicant points to page 12, line 21 through page 13, line 1 of the specification for support. That section discloses a client using subject based addressing technology to capture only those messages intended for it. Clearly, this shows a client can choose what messages to receive based on the subject, but does not teach a client sending a message where the subject field indicates to which client it is sent. The applicant argues that if a receiver can determine which messages are intended for it based on the subject, the sender must have entered a subject by which the sender can make the determination; and therefore the specification infers that the sender uses subject based addressing to indicate the intended receiver of the messages. The examiner believes this inference to be incorrect; the sender enters a subject of a broadcast to label the summarize the subject matter of the broadcast, it is not entered to as an addressing method to an intended receiver. It is clearly shown in the specification that a subject can be used as a way for a client to receive broadcasts that they may be interested in.

In addition, the applicant argues that claim 16 is clearly supported because the "application program is adapted to receive a text message wherein text in a subject field of the text message indicated an intended recipient." The application program receiving a text message does not remedy the issue that the text in a subject field indicating an intended recipient is not found in the specification.

Regarding the argument to claims 1, 16, 29, and 34, the applicant argues that voicemail messages are not normally broadcast and therefore one of ordinary skill of the art would not have found it obvious to take the converted voicemail message taught by Brown and broadcast the converted voicemail message to every component on the network. In the previous rejection, the examiner provided references to demonstrate that a voicemail message can be broadcast. The applicant then argued that references, which were solely provided to show that one of ordinary skill of the art would broadcast a voicemail message, the examiner provided do not teach broadcasting to every device on the network. It appears that the applicant is not refuting anything about those references other than that they do not teach broadcasting to every device on the network. The references of Binns et al. (U.S. Patent No. 5,923,733), Haaramo et al. (U.S. Patent No. 6,757,531), and Wegner et al. (U.S. Patent No. 6,032,192), clearly show broadcasting of a voicemail message. It may not be explicit that those references show a broadcast to every device on a network, but that is an inherent part of broadcasting as provided by its very definition. Regardless, broadcasting to all components on a network is shown in the Troen-Krasnow reference used in the rejection of these claims.